

FEBRUARY 9, 2009KAREN S. MITCHELL
CLERK, U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

CLETUS C. WILLIAMS, PRO SE,	§	
TDCJ-CID #1543403,	§	
COUNTY #95714,	§	
	§	
v.	§	2:08-CV-0228
	§	
Officer NFN NOWTON,	§	
Sergeant BERRY CARDEN,	§	
Chief ROBERT TAYLOR,	§	
UNNAMED OFFICERS OF AMARILLO	§	
POLICE DEPARTMENT,	§	
POTTER COUNTY SHERIFFS	§	
DEPARTMENT MEDICAL STAFF, and	§	
UNNAMED OFFICERS OF POTTER	§	
COUNTY SHERIFFS DEPARTMENT,	§	
	§	
Defendants.	§	

REPORT AND RECOMMENDATION

Plaintiff CLETUS C. WILLIAMS, acting pro se and while a prisoner confined in the Potter County Detention Center¹, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants and has been granted permission to proceed in forma pauperis.

On December 15, 2008, the Court issued a Notice of Deficiency and Order giving plaintiff thirty days in which to cure, in relevant part, the following deficiencies: a failure to utilize the complaint form promulgated by the Court and enclosed with the Order.

¹Plaintiff has since been transferred to the custody of the Texas Department of Criminal Justice, Correctional Institutions Division.

The response period has expired, and plaintiff has failed to comply with this provision of the Court's December 15, 2008 Order or to present any reason why he unable to comply with it.

The Magistrate Judge concludes plaintiff has abandoned his cause and such cause should be dismissed pursuant to Rule 41(b), Federal Rules of Civil Procedure for failure to prosecute. Alternatively, this suit should be dismissed for plaintiff's failure to comply with an order of this Court. Rule 41(b), Federal Rules of Civil Procedure.

CONCLUSION

It is the RECOMMENDATION of the Magistrate Judge to the United States District Judge that this cause be dismissed under Rule 41(b) for plaintiff's failure to prosecute. Alternatively, it is the RECOMMENDATION of the Magistrate Judge to the United States District Judge that this cause be dismissed under Rule 41(b) for plaintiff's failure to comply with the Court's order to supplement by submitting his complaint on the complaint form promulgated by the Court in compliance with Local Rule 5.3 and Miscellaneous Order No. 14.

INSTRUCTIONS FOR SERVICE

The United States District Clerk is directed to send a copy of this Report and Recommendation to each party by the most efficient means available.

IT IS SO RECOMMENDED.

ENTERED this 9th day of February 2009.


CLINTON E. AVERITTE
UNITED STATES MAGISTRATE JUDGE

*** NOTICE OF RIGHT TO OBJECT ***

Any party may object to these proposed findings, conclusions and recommendation. In the event a party wishes to object, they are hereby NOTIFIED that the deadline for filing objections is eleven (11) days from the date of filing as indicated by the “entered” date directly above the signature line. Service is complete upon mailing, Fed. R. Civ. P. 5(b)(2)(B), or transmission by electronic means, Fed. R. Civ. P. 5(b)(2)(D). When service is made by mail or electronic means, three (3) days are added after the prescribed period. Fed. R. Civ. P. 6(e). Therefore, any objections must be filed **on or before the fourteenth (14th) day after this recommendation is filed** as indicated by the “entered” date. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); R. 4(a)(1) of Miscellaneous Order No. 6, as authorized by Local Rule 3.1, Local Rules of the United States District Courts for the Northern District of Texas.

Any such objections shall be made in a written pleading entitled “Objections to the Report and Recommendation.” Objecting parties shall file the written objections with the United States District Clerk and serve a copy of such objections on all other parties. A party’s failure to timely file written objections to the proposed findings, conclusions, and recommendation contained in this report shall bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings, legal conclusions, and recommendation set forth by the Magistrate Judge in this report and accepted by the district court. *See Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).